

STATE BOARD OF ELECTIONS
Regular Meeting
Tuesday, August 22, 2017

MINUTES

PRESENT:

William J. Cadigan, Chairman
John R. Keith, Vice Chairman
Andrew K. Carruthers, Member
Ian K. Linnabary, Member
William M. McGuffage, Member
Katherine S. O'Brien, Member
Charles W. Scholz, Member
Casandra B. Watson, Member

ALSO PRESENT:

Steven S. Sandvoss, Executive Director
Bernadette Matthews, Asst. Exec. Director
Kenneth R. Menzel, General Counsel
Amy L. Calvin, Administrative Assistant III

The meeting convened at 10:30 a.m. via videoconference with seven Members present in Chicago. Member Watson held Member McGuffage's proxy until his arrival at 10:40 a.m.

Chairman Cadigan opened the meeting by leading everyone in the pledge of allegiance.

Member Keith moved to approve the minutes from the June 20 and July 3 meetings with a couple small revisions. Member Scholz seconded the motion which passed by roll call vote of 8-0.

General Counsel Menzel presented a request for settlement offer for agenda item 2.a.1) Franklin County Republican Central Committee, 346, 16AS005 and summarized the matter. He recommended the settlement be rejected because the offer was less than 50% of the outstanding fine and the fine itself was less than \$500. No one was present on behalf of the committee. Member Scholz moved to reject the settlement offer. Member Carruthers seconded the motion which passed by roll call vote of 8-0.

Mr. Menzel presented an appeal of campaign disclosure fines for agenda item 2.a.2) *SBE v. Northern IL Home Builders Association PAC*, 881, 17AM004 and concurred with the hearing officer to grant the appeal. Shela Lahey was present and also agreed with the recommendation. Member Scholz moved to grant the appeal. Member Watson seconded the motion which passed by roll call vote of 8-0.

Mr. Menzel presented the following appeals of campaign disclosure fines for agenda items 2.a.3 & 5-14:

- 3) *SBE v. Citizens for Frank Watson*, 1188, 17MQ011;
- 5) *SBE v. Harlem Democratic League*, 13002, 17MQ025;
- 6) *SBE v. Bellwood First Party*, 15371, 17AM014;
- 7) *SBE v. Illinois Association of Chiefs of Police PAC*, 17441, 17MQ033;
- 8) *SBE v. Citizens for Chris Nybo*, 18592, 17AD059;
- 9) *SBE v. Friends of Elgie Sims*, 22210, 17MQ055;
- 10) *SBE v. Friends of Fran Hurley*, 23955, 17AD062;

- 11) *SBE v. Citizens for Rachell Entler*, 30611, 17MQ122;
- 12) *SBE v. Citizens Supporting District 102 Vote Yes on Referendum*, 32345, 16D1018;
- 13) *SBE v. Smith for Mayor Campaign*, 32581, 17MA033;
- 14) *SBE v. Friends of Casey Nesbit*, 32868, 17D1029.

He concurred with the hearing officer recommendation to grant the appeals. No one was present on behalf of the respondent committees. Member Carruthers moved to grant the above noted appeals. Member Scholz seconded the motion which passed by roll call vote of 8-0.

Member Scholz moved to grant the appeal for agenda item 2.a.4) *SBE v. Godfrey District 1 Republicans*, 7453, 17MQ015. Member Watson seconded the motion which passed by roll call vote of 7-0. Member Carruthers recused himself from the vote.

Member Watson moved to grant the appeal for agenda item 2.a.20) *SBE v. Holland & Knight LLP IL Committee for Effective Government*, 16109, 17AD057. Member Carruthers seconded the motion which passed by roll call vote of 6-0. Chairman Cadigan and Vice Chairman Keith recused themselves from the vote.

Agenda item 2.a.30) *SBE v. Friends Supporting Flora Digby*, 26225, 16MA066 was presented and Mr. Menzel concurred with the hearing officer recommendation to deny the appeal. Ms. Digby was present and indicated that the committee did not want to dissolve at this time. It was decided to table the matter later in the meeting so Ms. Digby could meet with campaign disclosure staff to discuss the procedure for settlement offers.

The meeting recessed at 10:42 a.m. for a board member group photo and reconvened at 10:46 a.m.

Mr. Menzel presented the following appeals of campaign disclosure fines for agenda items 2.a.15-19 & 31-43:

- 15) *SBE v. Calhoun County Democratic Central Committee*, 1322, 17MQ012;
- 16) *SBE v. Citizens for David Orr*, 4314, 16AS057;
- 17) *SBE v. Friends of Rick Stone*, 7416, 17MQ014;
- 18) *SBE v. Citizens for Jim Langfelder*, 12048, 17AM009;
- 19) *SBE v. IL Association of Aggregate Producers PAC*, 13314, 17AM010;
- 20) *SBE v. Holland & Knight LLP IL Committee for Effective Government*, 16109, 17AD057;
- 21) *SBE v. Downstate Democratic Caucus*, 14859, 17AD016;
- 22) *SBE v. Committee to Re-Elect Larry R. Rogers*, 18001, 16MA059;
- 23) *SBE v. LIUNA AFL-CIO Local 362 PAC*, 20149, 17MQ046;
- 24) *SBE v. Citizens for Paul Chialdikas*, 21247, 17AD060;
- 25) *SBE v. Committee to Elect Susan Sarfaty*, 24222, 17MQ077;
- 26) *SBE v. Citizens to Elect Anthony Coleman for Mayor of North Chicago*, 24540, 17DQ066;
- 27) *SBE v. Edwardsville Education Association – IPACE*, 25208, 17AD065;
- 28) *SBE v. Two Rivers PAC*, 25296, 17AD066;
- 29) *SBE v. Twelve PAC*, 26056, 17AD070;
- 31) *SBE v. Citizens for Julie Schmidt*, 27284, 17MQ114;
- 32) *SBE v. Citizens to Elect Robin D. Shoffner*, 29601, 17DQ092;
- 33) *SBE v. Voter Data Information PAC*, 31845, 17MQ127;
- 34) *SBE v. The Committee to Elect Michael Strange*, 32073, 17MQ132;
- 35) *SBE v. 32nd Ward Fighting Democrats*, 32323, 17MA029;

- 36) *SBE v. Township Citizens Party*, 32410, 17AD080 & 17AM030;
- 37) *SBE v. Prosperity for Lisle*, 32478, 17AM036;
- 38) *SBE v. Friends of Scott Bush*, 32572, 17AM041;
- 39) *SBE v. Citizens for Joan Dykstra*, 32592, 17MQ165;
- 40) *SBE v. Secure Services for Seniors*, 32705, 17MA035;
- 41) *SBE v. People to Elect Natavias Ervins*, 32780, 17D1018;
- 42) *SBE v. Friends of Cassandra J. Matz*, 32812, 17D1021;
- 43) *SBE v. Citizens to Support the Limiting Rate Referendum for DeKalb County Committee*, 32832, 17MA041.

He concurred with the hearing officer recommendation to deny the appeals. No one was present on behalf of the committees. Member Scholz moved to deny the above noted appeals. Member Watson seconded the motion which passed by roll call vote of 8-0. Member Keith recused himself from item 18.

Agenda item 2.a.45) *SBE v. Citizens to Elect Perry D. Browley*, 32612, 17MA034 was presented and Mr. Menzel concurred with the hearing officer recommendation to grant the appeal in part and deny the appeal in part. Mr. Browley was present and indicated the committee was new to the filing requirements. It was decided to table the matter later in the meeting so Mr. Browley could meet with campaign disclosure staff to discuss the procedure for settlement offers.

Mr. Menzel presented agenda item 2.a.44) *SBE v. Friends of Gregory Livingston*, 32004, 16MA070 and concurred with the hearing officer recommendation to grant the appeal in part and deny the appeal in part. No one was present on behalf of the committee. Member Carruthers moved to accept the recommendation of the General Counsel and hearing officer. Vice Chairman Keith seconded the motion which passed by roll call vote of 8-0.

The Board returned to agenda item 2.a.30) *SBE v. Friends Supporting Flora Digby*, 26225, 16MA066 and Ms. Digby offered a settlement of \$150.00. Mr. Menzel recommended the offer be accepted. Member Watson moved to deny the appeal and accept the \$150 settlement offer to be paid within thirty days. Member Scholz seconded the motion which passed by roll call vote of 8-0.

The Board returned to agenda item 2.a.45) *SBE v. Citizens to Elect Perry D. Browley*, 32612, 17MA034 and Mr. Browley offered a settlement of \$680.04, which was the remaining funds balance. Mr. Menzel recommended the offer be accepted. Member McGuffage moved to grant the appeal in part and deny the appeal in part and accept the settlement offer to be paid within thirty days. Member Scholz seconded the motion which passed by roll call vote of 8-0.

Mr. Menzel presented a violation of a board order for agenda item 2.a.46) *SBE v. Citizens for Curtis*, 16JQ105 & 17DQ086 and summarized the matter. The committee was ordered to file amended reports to correct the negative balances within thirty days and failed to do so. Member Scholz moved to impose a fine of \$5,000.00 for violation of the board order. Member McGuffage seconded the motion which passed by roll call vote of 8-0.

Violation of a board order for agenda item 2.a.47) *Johnson v. District 228 School Board Parents for Progress*, 17CD056 was presented and the committee failed to file the amended reports as ordered within thirty days. Member Scholz moved to impose a fine of \$5,000.00 for violation of the board order. Member Watson seconded the motion which passed by roll call vote of 8-0.

Mr. Menzel discussed assessments for unfiled reports and asked for a motion to authorize the policy changes outlined in Tom Newman's memo on pages 228-229 of the board packet. Member Carruthers moved to adopt Mr. Newman's proposals. Member Linnabary seconded the motion which passed by roll call vote of 8-0.

A listing of civil penalty assessments necessitating a final board order was presented. Member Scholz moved to assess the civil penalty against the committee listed on pages 230-236 of the board packet. Member Watson seconded the motion which passed by roll call vote of 8-0.

Member Scholz moved to recess to executive session to consider complaints following closed preliminary hearing. Member Linnabary seconded the motion which passed by roll call vote of 8-0. The meeting recessed at 11:00 a.m. and reconvened at 11:10 a.m. with all Members present.

As to agenda item 2.a.51) *Paus v. Seaman, et al*, 17CD006, Member Carruthers moved to dismiss the complaint for want of prosecution. Member Linnabary seconded the motion which passed by roll call vote of 8-0.

As to agenda item 2.a.52) *Durkin v. Winston*, 17CD050, Member Carruthers moved to dismiss the complaint for want of prosecution. Member Linnabary seconded the motion which passed by roll call vote of 8-0.

As to agenda item 2.a.53) *Gilroy v. Democratic Party of DuPage County*, 17CD058, Member Carruthers moved to dismiss the complaint because it was beyond the Board's jurisdiction and direct staff to refer the matter to the appropriate State's Attorney for potential prosecution with a copy of said letter to complainant upon sending. Member Linnabary seconded the motion which passed by roll call vote of 8-0.

Next on the agenda was proposed changes to Administrative Rules – Part 100 Campaign Financing & Part 125 Practice and Procedure. Member Watson moved to place the matter on the September meeting agenda to allow more time to review the revisions. Member Scholz seconded the motion which passed unanimously.

Executive Director Sandvoss presented a request from the Presidential Advisory Commission on Election Integrity (PACEI) and reviewed the history of the matter. The first request letter was received by the Secretary of State's office on July 5 and was immediately forwarded to the State Board of Elections. The letter requested that the agency provide PACEI with a copy of the state's publicly available voter data and respond to several inquiries. Mr. Menzel's letter dated July 7 advised PACEI that Illinois does not have publicly available voter data and that state statute protects the confidentiality and privacy of voter registration data, limiting its release to registered political committees and governmental entities. On July 27 the agency received a revised request from PACEI seeking information as would be provided to, in their words, political candidates, journalists, and other interested members of the public. The Commission stated that the voter data provided by the states would not be released to the public. Mr. Sandvoss said that the request has generated concern amongst staff and various special interest groups. He also noted that the revised request did not include the \$500 fee that the agency charges political committees and governmental entities to receive the voter data files.

Mr. Menzel spoke with the Attorney General's office and they raised two main concerns regarding the revised request from PACEI. First, they believe that any information provided to

PACEI would have to be made public under the Federal Advisory Committee Act and Freedom of Information Act. Second, they question as to whether PACEI is pursuing a proper governmental purpose to qualify to receive voter data under the Illinois Election Code. Mr. Menzel also felt that analysis of the limited voter data could generate hundreds of false positives for every double registration that would be identified and that a federal commission would not be in a position to perform the follow up work for accurate determinations. He noted that a proposed narrative statement addressing the questions in the first request was included in the board packet along with his recommendation. Mr. Menzel suggested that Board first inform PACEI that governmental entities seeking the statewide voter data file are required to submit the required \$500 fee. Next, the Board should advise PACEI that the Illinois Attorney General does not believe the voter data could be kept confidential under the Federal Advisory Commission Act and the Federal Freedom of Information Act and ask PACEI to provide its legal basis for its claim that it would be exempt from disclosure under those Acts. Also, the Board should inquire as to exactly what PACEI plans to do with the data, how they plan to undertake their statistical analysis and what will be done with the results. Lastly, the Board should transmit the narrative statement answering the seven questions.

Chairman Cadigan opened the floor for discussion amongst the board and each member offered their thoughts and concerns. Mr. Menzel noted that over the last couple of years approximately eighty requests were received for the statewide voter registration database file. The requests include those from registered candidate and party political committees and federal district court clerks on a case by case basis. Steve Held, representing Indivisible Chicago, was present and Chairman Cadigan invited him to offer his public comments on the matter. Mr. Held offered his opinions on why the State of Illinois should not release voter information to PACEI and also urged the agency to withdraw from the Interstate Voter Registration Crosscheck. He then asked the board to ultimately refuse to comply in any way with the Commission's request because he felt it does not serve a legitimate government purpose. He also asked the Board to place the issue of withdrawal from the Interstate Voter Registration Cross-Check on the next board meeting agenda. Chairman Cadigan noted that staff was in the process of gathering information from the local election authorities regarding the Cross Check program. After discussion, the Board agreed to direct Mr. Menzel to draft a response along the lines of his recommendation including proposed answers to the seven questions on the PACEI request. The proposed correspondence will be posted on the agency website and placed on the September meeting agenda for review.

Chairman Cadigan informed the audience that Mr. Held was given the latitude to speak during the middle of the meeting instead of public comments because his material was well-researched and represented a broad cross-section of individuals and organizations. The others that have requested to speak are all on the same topic, and it is the policy to not allow public comments from multiple individuals on the same topic. Chairman Cadigan indicated the opportunity for those remaining to leave the meeting if they felt Mr. Held represented their views reasonably well. The Board took a short break at 12:10 p.m. and returned at 12:20 p.m.

Executive Director Sandvoss presented the legislative update and stated that SB1933, Automatic Voter Registration was still on the Governor's desk awaiting his signature. Chairman Cadigan discussed the creation of a legislative subcommittee and he and Vice Chairman Keith felt that two board members should be assigned the task to work with executive staff on reviewing legislative proposals and matters of that nature. Chairman Cadigan appointed Member Carruthers and Vice Chairman Keith appointed Member McGuffage and thanked them for agreeing to serve in these roles.

Kyle Thomas began the IVRS/IT update by referring to his memo and spreadsheet on pages 282-285 of the board packet. He noted that at the July board meeting, it was erroneously reported that 1,089 potential double voters were identified. The actual number was 1,379 total records identified through the process since IVRS was implemented. Of those, 765 of the matches were determined to be separate voters and no instances of double voting. It was also pointed out that 357 of the matches were individuals that improperly signed a ballot application, for example, a father signed for his son. In conclusion, 257 of the records appear to be double voting based on the election authority investigations and 65 of those records have been sent to appropriate law enforcement for further review. Mr. Thomas noted that this report is not a full representation of all vote fraud and that other types of fraud could be possible.

Kevin Turner indicated that progress continues on the mandates set forth by SB172 and he is anticipating the changes that will need to be implemented once SB1933 is signed. Since no supplemental appropriation will be received staff will do the best they can to comply with those requirements as they have for implementation of SB172. Mr. Turner reviewed his current projects which include database conversion from version 2012 to 2016, updates on CPREX for records examinations and conversion of the public website to a new development framework. It was also reported that the vendor credit hold should be lifted soon which would allow the purchase of various computer equipment items and much needed licenses. Mr. Turner indicated that he prepared a listing of equipment, services and additional staff that will be necessary to implement SB 1933, which totaled approximately \$940,000.00. Member Keith moved to direct staff to prepare and request a supplemental appropriation to implement SB1933. Member Watson seconded the motion which passed unanimously.

Mr. Sandvoss presented the social media update and asked Amy Kelly to report on the matter. The agency Facebook account has been up and sharing information that is posted on the agency website. Ms. Kelly then requested permission to set up an agency Twitter account as well to continue the sharing of information to even more individuals. The Board unanimously agreed to direct staff to open the agency Twitter account.

A report from Mr. Thomas on his participation at the International Association of Government Officials (iGO) Conference was included on pages 286-288 of the board packet for informational purposes.

The reports of fiscal activity and two year plan of staff activity were presented for informational purposes. The Board directed staff to include a full report of the 4x4 swap at the September meeting.

Chairman Cadigan indicated several individuals requested to speak during the public comments section of the meeting and reminded them of the five minute time limit for each person. The following individuals spoke during this portion of the meeting: Dr. Laura Chamberlain on behalf of Clean Count Cook County; Sandra Alexander on behalf of Western Divisible Suburban Engagement; Linda Kallis; Mary Schaafsma on behalf of the League of Women Voters in Illinois; Joelle Munchek on behalf of Lawyers for Good Government; and Dr. Nicole Anderson Cobb on behalf of State Representative Carol Ammons in the 103rd District. Opinions were voiced regarding electronic voting machines, cyber-attacks, voter fraud, the PACEI request and cross-check program.

With there being no further business before the Board, Member O'Brien moved to adjourn until Monday, September 18, 2017 in Springfield. Member Scholz seconded the motion which passed unanimously. The meeting adjourned at 1:35 p.m.

Respectfully submitted,



Amy L. Calvin, Administrative Assistant II



Steven S. Sandvoss, Executive Director